

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission)	
On Its Own Motion)	
)	Docket No. 09-0113
Reconciliation of revenues)	
collected under Coal Tar riders)	
with prudent costs associated with)	
coal tar clean up expenditures)	

Direct Testimony of

DONALD F. MARTINO

Senior Rate Analyst

Northern Illinois Gas Company
d/b/a Nicor Gas Company

April 24, 2009

1 **Q. Please state your name and business address.**

2 A. Donald F. Martino, 1844 Ferry Road, Naperville, Illinois 60563-9600.

3 **Q. By whom are you employed?**

4 A. Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor Gas” or “Company”).

5 **Q. What position do you hold with Nicor Gas?**

6 A. I am a Senior Rate Analyst.

7 **Q. How long have you been employed by Nicor Gas?**

8 A. Fifteen years.

9 **Q. Please summarize your educational background and work experience.**

10 A. I hold a Bachelor of Science degree in Accounting from the University of Illinois at
11 Chicago, and a Master of Business Administration in Finance from DePaul University. I
12 began my employment with Nicor Gas in 1993 as an accountant in Corporate
13 Accounting. Since that time I have held positions in the Credit Administration and
14 Office of Assistant Treasurer Departments of Nicor Gas. In July 2000, I assumed my
15 present position in the Rate Department as Senior Rate Analyst.

16 **Q. What is the purpose of your direct testimony?**

17 A. The purpose of my direct testimony is to explain Nicor Gas’ reconciliation of
18 Environmental Cost Recovery (“ECR”) revenues, with the cost of environmental
19 remediation incurred, as recorded on the books of the Company, for the calendar year
20 2008. My testimony and exhibits are in response to the Illinois Commerce Commission’s
21 Order Commencing Reconciliation Proceedings entered February 25, 2009, in Docket
22 No. 09-0113.

23 **Q. Was notice given to the public relative to the filing of the testimony and exhibits in**
24 **this docket?**

25 A. Yes. Pursuant to the requirements set forth in the Commission's Order, and in
26 accordance with the requirements of 83 Illinois Administrative Code Part 255, the
27 Company has posted a printed "Public Notice" card with respect to this case in the
28 business offices of the Company, and a similar public notice was published in
29 newspapers of general circulation in Nicor Gas' service territory. In addition, copies of
30 Nicor Gas' testimony and exhibits are on file and available for inspection at the
31 Company's business offices open to the public.

32 **Q. Please describe the environmental activity costs recoverable through Rider 12.**

33 A. The ECR costs include all incremental costs incurred in connection with environmental
34 activities. Environmental activities include, but are not limited to, the investigation,
35 sampling, monitoring, testing, removal, disposal, storage, remediation or other treatment
36 of residues associated with manufactured gas plant operations or the dismantling of such
37 facilities. The costs associated with these activities include, but are not limited to, fees,
38 charges, billings, assessments or other liabilities (other than expenses for wages and
39 salaries of Company employees); litigation expenses; acquisition costs of land purchased
40 solely for remediation; and costs associated with judgments, orders or decisions
41 (including settlements) by a court, a governmental agency or department, or other quasi-
42 adjudicatory body.

43 **Q. Please generally describe Nicor Gas' Rider 12, Environmental Cost Recovery.**

44 A. Rider 12 prescribes the method of computing charges that reflect recovery of the cost of
45 environmental remediation activities. The purpose and intent of the ECR rider in effect

46 during the reconciliation period was to pass along to customers the Company's
47 environmental activity costs, without markup or profit.

48 Each December, Nicor Gas files with the Commission an information sheet, along
49 with its projected environmental costs for the next calendar year and the calculations
50 necessary to determine the ECR charge for the coming year.

51 To calculate the ECR charge for various classes of service, the Company uses its
52 forecast of base revenues and throughput by class of service (Residential, Small Non-
53 Residential and Large Non-Residential), forecasted environmental costs and
54 unrecovered/over-recovered past costs.

55 For 2008, environmental costs were allocated by service class, based on each
56 class' forecasted portion of total Company base revenues. The environmental activity
57 costs by service class were then divided by the respective class' forecasted throughput to
58 determine the applicable ECR charges. The 2007 Annual Reconciliation Charge
59 ("ARC"), effective April 1, 2008, was calculated in a similar manner using actual data.

60 **Q. How does the Company forecast its upcoming environmental costs?**

61 A. This task is performed by the Environmental Health and Safety Department. Company
62 witness Nancy Huston, President of Tall Oak Associates Inc., provides the details of the
63 forecasting process. (Nicor Gas Ex. 2.0).

64 **Q. How are the forecasted base revenues and throughput figures developed by the**
65 **Company?**

66 A. The forecasted data is developed by Nicor Gas' Forecasting Services Department. A
67 forecast of base revenues and therm throughput is provided to the Rate Department for
68 the purpose of the ECR calculations.

69 **Q. How are the ECR charges applied in billing the Company's customers?**

70 A. The three ECR charges of Residential, Small Non-Residential and Large Non-Residential
71 were applied to the customers' therm use during 2008.

72 **Q. Are there any potential offsetting credits to environmental activity costs?**

73 A. Yes. If the Company receives proceeds from insurance carriers or other entities that
74 represent reimbursement of costs associated with manufactured gas plant cleanup
75 activities, they are credited, in full, to Rider 12 costs. Additionally, revenue may be
76 received from property purchased solely for the purpose of remediation and this revenue
77 would also be included in Rider 12 calculations.

78 **Q. What actions has the Company taken to recover ECR expenses from insurance**
79 **carriers?**

80 A. In December 1995, the Company filed suit in the Circuit Court of Cook County seeking
81 recovery of the costs of investigation and remediation associated with former
82 manufactured gas plants. The Court granted the defendants' motions for summary
83 judgment in 2000, resulting in the dismissal of the Company's suit. The Company
84 appealed that decision. In September 2002, the First District Appellate Court affirmed
85 the trial court's summary judgment ruling. The Company filed a petition for leave to
86 appeal before the Illinois Supreme Court. In December 2002, the Supreme Court denied
87 the Company's petition. To the extent that the Company is named in new claims or suits
88 that may result in further investigation and remediation costs, the Company continues to
89 provide notice to its insurers and to request indemnification for such costs under its
90 insurance policies. The Company's answer should not be construed as a waiver of any

claim(s) the Company may have against any named or unnamed insurance company, or any other third party, that has yet to be asserted.

For the most part, the Company has settled its claims with the insurance carriers and has received over \$18.5 million in payments. The Company anticipates receiving minimal future payments.

Q. Did the Company receive any proceeds from insurance carriers or revenues from property purchased for remediation during the reconciliation period?

A. Yes. The Company received \$93,773.62 from insurance carriers and \$225.00 for the rental of property during 2008. These amounts offset other recoverable costs incurred during 2008, thereby reducing the total environmental remediation costs to be recovered for 2008 from ratepayers.

Q. Did the Company receive any proceeds from entities other than insurance carriers or as revenues from property purchased for remediation during the reconciliation period?

A. Yes. As explained by Company witness Ms. Huston (Nicor Gas Ex. 2.0), and as authorized by the Commission in Docket No. 93-0431, Nicor Gas and Commonwealth Edison Company (“ComEd”) have entered into an Interim Cooperative Agreement for investigation and remediation of common sites. From time to time, Nicor Gas is reimbursed by ComEd for expenses it incurs and, likewise, Nicor Gas pays ComEd a portion of its expenses. As provided under the Agreement, final allocation of costs between Nicor Gas and ComEd will be determined through negotiation or arbitration. For the year 2008, Nicor Gas received from ComEd \$4,902,274.64 and Nicor Gas paid ComEd \$1,390,364.96.

114 **Q. Do you have an exhibit showing the calculations for the 2008 ECR charges?**

115 A. Yes. Nicor Gas Exhibit 1.1 is a copy of the Company's Rider 12 filing with the
116 Commission dated December 10, 2007 for charges to be effective January 1, 2008.

117 **Q. Please briefly describe Nicor Gas Exhibit 1.1.**

118 A. The first page of Nicor Gas Exhibit 1.1 is the transmittal letter for the 2008 ECR charges.
119 The second page is the 33rd Information Sheet for Rider 12 charges, which is a
120 requirement of the Company's Rider 12 tariff. The last page shows the calculations of
121 the ECR charges for 2008.

122 **Q. Were the ECR charges modified during 2008 to reflect changes in costs that were**
123 **incurred and recovered?**

124 A. Yes. Effective April 1, 2008, the Company filed changes to its Rider 12 charges to
125 reflect the 2007 annual reconciliation. Nicor Gas Exhibit 1.2 is a copy of the Company's
126 filing with the Commission dated March 20, 2008. The annual reconciliation of 2007
127 costs and revenues showed an over collection of costs of \$5,816,571 and, therefore, the
128 Rider 12 charges were changed on April 1, 2008 to reflect the over collection.

129 **Q. Were any other changes made to the ECR charges during 2008?**

130 A. No. Typically near the end of the third quarter, the Company will evaluate the current
131 rate by comparing the actual year-to-date clean-up costs and revenue collected with the
132 estimates filed at the end of the prior year. If there is a significant change from the
133 original estimates, Nicor Gas files a change to the basic ECR rates that would be effective
134 from October 1 through December 31. This year, the review resulted in a minor
135 adjustment; therefore, no change in the Rider 12 charge was filed.

136 **Q. What type of audit was performed in conjunction with the Company's annual**
137 **reconciliation?**

138 A. The filing of the Statement of Expenses Incurred and Recovered was reviewed by
139 Deloitte & Touche, the Company's outside auditors, who also performed a review of the
140 Company's actual expenses. This statement reconciles the Company's actual
141 environmental costs incurred with the amount recovered for such expenses, and was
142 prepared by Nicor Gas employees.

143 **Q. Was the Statement of Expenses Incurred and Recovered for 2008 filed in**
144 **accordance with the terms of Rider 12?**

145 A. Yes. The statement for 2008, included as Nicor Gas Exhibit 1.3, was filed with the
146 Commission on February 27, 2009.

147 **Q. Please briefly describe Nicor Gas Exhibit 1.3.**

148 A. The first page of Nicor Gas Exhibit 1.3 is the transmittal letter for the filing of the 2008
149 annual statement. The second page is a summary of expenses incurred and recovered for
150 2008. The third page is the Deloitte & Touche audit report and the last page is the
151 affidavit of Gerald P. O'Connor, Senior Vice President Finance and Strategic Planning.

152 **Q. Are you providing additional information to support the Company's reconciliation**
153 **balance as of December 31, 2008?**

154 A. Yes. Nicor Gas Exhibit 1.4 is provided to show the Company's Rider 12 revenues,
155 expenses and carrying costs since inception of the program. It provides a link between
156 past reconciliations and the current reconciliation to reflect the Commission's orders in
157 these dockets and how the Company has recorded the adjustments. This additional

158 information was previously requested by Staff so as to more easily audit the Company's
159 data.

160 **Q. Please briefly describe Nicor Gas Exhibit 1.4.**

161 A. Nicor Gas Exhibit 1.4 shows, by year, the amount of revenues, expenses and carrying
162 costs the Company recorded on its books, as well as the amount the Commission
163 approved in each of the respective dockets. The difference between these two numbers is
164 the amount by which the Company needs to adjust future charges to properly collect
165 approved costs. Assuming no adjustments to Nicor Gas' data, the cumulative
166 reconciliation balance, including carrying costs, would be an over recovery of
167 \$1,905,801.51 as of December 31, 2008.

168 **Q. Have you included an exhibit showing cumulative totals of recoveries by customer**
169 **class, as required by the Order Commencing Reconciliation Proceedings in this**
170 **Docket?**

171 A. Yes. Nicor Gas Exhibit 1.5 provides the requested information.

172 **Q. Does this conclude your direct testimony?**

173 A. Yes.